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PL 401 Docket Operations  
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Washington, D.C.  
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Arctic Circle Air Service, Inc.

Comments in response to the  
Departments request regarding  
implementation of the Rural  
Service Improvement Act (RSIA)

Docket 2003-14694-12  
Docket 2003-14695-12

In response to the Departments request, Arctic Circle Air Service, Inc. submits the following:

First - Paragraph (k)(4).

Requiring carriers to submit a new report monthly would exceed the requirements of the RSIA. A yearly report updating fleet status and insurance information should be adequate.

Second - T-100 O & D statistics.

Due to the importance of accurate information for carrier selection and allocation of mail tender under the new system, Arctic Circle Air believes that the initial period should not be determined on anything less than a full years data. In order to acquire the most accurate data, the Department must require all carriers to submit prior data in a standardized format so that such data is consistent from one carrier to the next. This vitally important action will assure the accurate selection of carriers into the appropriate mail tender pool. A problem that I will expound upon later, is that of reporting excess baggage, nonrevenue freight and comat as commercial freight. These specific items are not true freight and to use data that previously allocated it as such skews the true commercial freight numbers and unfairly jeopardizes the nonmail freight carriers ability to gain its proper percentage in the mail tender pool.

The Department is anticipating the first tender of mail under the new system will use an annual data pool with a year end of 6-30-03. Arctic Circle Air believes that this time frame is too early a period and will not allow for sufficient collection of data for those carriers that have changes their operations to comply with the requirements of the RSIA. A more appropriate year end would be 7-31-03 or even better 8-31-03. This would still allow the Department and Postal Service 3 to 4 months to analyze the data and finalize the selection of carriers.

The use of T-100 reports for determining market shares establishes a need for a standardized system of depicting flight schedules. The Departments temporary requirement for single plane operations having one flight number assigned is a valid solution and should become a continual part of the T-100 reporting requirements.

Third - Section (k) (5) .

The use of excise tax as I understand it is to verify the accuracy and validity of the reported passenger numbers, as well as pounds of freight carried. The fallacy of this "check and balance" system lies in the fact that excise taxes are collected by any number of different entities. The system of interlining passengers and freight leads to an inevitable situation that excise tax reports will not correspond with either passenger or freight numbers. This anomaly is caused by the fact that the originating entity has collected the tax and not the downline carrier. Although the accuracy of the reports will obviously be in error, the fact remains that the RSIA requires them and unless the law is changed Arctic Circle Air and many other carriers will have to revamp their accounting systems to capture the required data.

Fourth - Actions of carriers to qualify.

Proof of qualifications takes the form of Operations Specifications, current and/or additional aircraft acquisitions, advertising, insurance policies and various documents needed for the transportation of either passengers or freight such as tickets and airway bills. Since the majority of carriers have a history of their qualifications through data already on file at the FAA and DOT, the Secretary should need to request qualifying information only from those carriers where their qualifications may be in question.

Fifth - Preferential tender

The RSIA does not apply in any way to airport certification but rather to operations by 121 bush passenger carriers. In 5402(a) (18) the term "121 bush passenger carrier" means a bush passenger carrier providing passenger service on bush routes under Part 121.

In order to operate under Part 121, the aircraft utilized would need to comply with the requirements of 121.157(f). The majority of aircraft currently utilized under Part 135 are unable to meet these requirements and therefore may not be operated under Part 121 but must remain operating under Part 135. 5402(a)(22) and (23) define "135 bush passenger carrier" as operating under Part 135 and therefore the rate required by (6)(C) would have to be the 135 bush rate as established by the Secretary. In accordance with long standing DOT policies, you cannot pay a rate for a service that does not exist. In order for a route to be a 121 bush rate route, a Part 121 aircraft must actually operate on that route, and do so under Part 121 regulations.

#### Sixth - Rate making issues

According to the strict reading of the law, paragraph (18) applies to all bush passenger carriers providing passenger service on bush routes under Part 121. In neither paragraph (18) or 6(B) is there a mention of the 19 seat requirement. The 19 passenger seat reference is a requirement to remain eligible for mail tender under (h)(2)(B)(i) and is not a bases for rate making in 6(B). All aircraft operated under 121 and on bush routes regardless of the number of seats must be in the cost pool for the 121 bush rate.

An additional concern as it relates to the establishment of the 121 bush rate is the practice of 121 carriers operating their 19 passenger aircraft on both mainline and bush routes. Data used in determining the 121 bush rate must be derived from operations that are conducted solely on bush routes. Any data associated with operating on mainline routes must be excluded.

There is no need for a fourth bush rate.

#### Seventh - Ratemaking issues

Because of the RSIA and its significant effect on the overall air transportation system in Alaska, Arctic Circle Air believes that the current mail rates should remain in effect as an interim rate, until such time as the RSIA has been fully implemented and its impact on the carriers can be evaluated. These rates would be applicable to all operations 121 bush, 135 bush and amphibious aircraft.

#### Eighth - Data

Arctic Circle Air currently meets most if not all of these requirements.

## Additional Issues

### First - Excess baggage

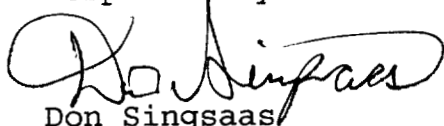
Excess baggage has historically been reported to the DOT as freight however, since excise tax is not applicable to excess baggage (Appendix 1, IRS publication 510 Excise Taxes) it is misleading to allocate these significant poundages to passenger carrier nonmail freight statistics. To allow passenger carriers to count excess baggage pounds as nonmail freight only serves to invalidate the true nonmail freight market data and jeopardizes the nonmail freight carriers ability to maintain its proper share of the nonmail freight mail tender pool. Nonmail freight must be true commercial freight that was presented to the carrier as freight, documented as such on a freight airway bill and all appropriate excise taxes collected. The Department must require carriers to report commercial freight numbers and excess baggage numbers separately.

### Second - Mail rates

The RSIA does not explicitly state what the applicable mail rate will be for the nonmail freight carriers. 5402(4) defines the term "bush carrier" as meaning a carrier operating aircraft certificated within the payload capacity requirements of subsection (g)(1)(D)(i) on a city pair route. Paragraph (g)(1)(D)(i) states that a carrier operating aircraft with a payload capacity up to 7,500 pounds shall transport mail at the applicable intra-Alaska bush service mail rate. Arctic Circle Air maintains that this requires that nonmail freight carriers shall be paid the appropriate 121 bush passenger rate or 135 bush passenger rate as is applicable to that route at that time.

Thank you for the opportunity to present our views on these matters. Should you have questions or require additional information please don't hesitate to contact me.

Respectfully Submitted,



Don Singaas  
Director of Operations

Attachments:  
Appendix 1 Excise Taxes

*rupted international air transportation* (defined earlier) even if the scheduled interval between arrival and departure at any station in the United States is actually more than 12 hours. However, such personnel must buy their tickets within 12 hours after landing at the first domestic airport and accept the first available accommodation of the type called for by their tickets. The trip must begin or end outside the United States and the 225-mile zone.

**Certain helicopter uses.** The tax does not apply to air transportation by helicopter if the helicopter is used for any of the following purposes.

- 1) Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.
- 2) Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
- 3) Providing transportation for emergency medical services.

However, during a use described in items (1) and (2), the tax applies if the helicopter takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.

**Fixed-wing air ambulance.** The tax does not apply to air transportation by fixed-wing aircraft if used for emergency medical transportation. The aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

**Skydiving.** The tax does not apply to any air transportation exclusively for the purpose of skydiving.

**Bonus tickets.** The tax does not apply to free bonus tickets issued by an airline company to its customers who have satisfied all requirements to qualify for the bonus tickets. However, the tax applies to amounts paid by customers for advance bonus tickets when customers have traveled insufficient mileage to fully qualify for the free advance bonus tickets.

## Use of International Air Travel Facilities

A \$13.20 tax per person is imposed on amounts paid during 2002 (whether in or outside the United States) for international flights that begin or end in the United States. However, for a domestic segment that begins or ends in Alaska or Hawaii, a \$6.60 tax per person applies only to departures. This tax does not apply if all the transportation is subject to the percentage tax, discussed earlier.

## Transportation of Property by Air

A tax of 6.25% is imposed on amounts paid (whether in or outside the United States) for transportation of property by air. The fact that the aircraft may not use public or commercial

airports in taking off and landing has no effect on the tax. The tax applies only to amounts paid to a person engaged in the business of transporting property by air for hire.

The tax applies only to transportation (including layover time and movement of aircraft in deadhead service) that **begins and ends** in the United States. Thus, the tax does not apply to transportation of property by air that begins or ends outside the United States.

**Exemptions from tax.** The tax on transportation of property by air does not apply in the following situations. See also *Special Rules on Transportation Taxes*, later.

**Cropdusting and firefighting service.** The tax does not apply to amounts paid for cropdusting or aerial firefighting service.

**Exportation.** The tax does not apply to payments for transportation of property by air in the course of exportation (including to United States possessions) by continuous movement, as evidenced by the execution of **Form 1363, Export Exemption Certificate**. See **Form 1363** for more details.

**Certain helicopter and fixed-wing air ambulance uses.** The tax does not apply to amounts paid for the use of helicopters in construction to set heating and air conditioning units on roofs of buildings, to dismantle tower cranes, and to aid in construction of power lines and ski lifts.

The tax also does not apply to air transportation by helicopter or fixed-wing aircraft for the purpose of providing emergency medical transportation. The fixed-wing aircraft must be equipped for and exclusively dedicated on that flight to acute care emergency medical services.

**Skydiving.** The tax does not apply to any air transportation exclusively for the purpose of skydiving.

**Excess baggage.** The tax does not apply to excess baggage accompanying a passenger on an aircraft operated on an established line.

**Alaska and Hawaii.** For transportation of property to and from Alaska and Hawaii, the tax in general does not apply to the portion of the transportation that is entirely outside the continental United States (or the 225-mile zone if the aircraft departs from or arrives at an airport in the 225-mile zone). But the tax applies to flights between ports or stations in Alaska and the Aleutian Islands, as well as between ports or stations in Hawaii. The tax applies even though parts of the flights may be over international waters or over Canada, if no point on a line drawn from where the route of transportation leaves the United States (Alaska) to where it reenters the United States (Alaska) is more than 225 miles from the United States.

**Liability for tax.** The person paying for taxable transportation is liable for the tax and, ordinarily, the person engaged in the business of transporting property by air for hire receives the payment, collects the tax, files the returns, and pays over the tax to the government.

If tax is not paid when a payment is made outside the United States, the person furnishing the last segment of taxable transportation collects the tax from the person to whom the property is delivered in the United States.

## Special Rules on Transportation Taxes

In certain circumstances, special rules apply to the taxes on transportation of persons and property by air.

**Aircraft used by affiliated corporations.** The taxes do not apply to payments received by one member of an affiliated group of corporations from another member for services furnished in connection with the use of an aircraft. However, the aircraft must be owned or leased by a member of the affiliated group and cannot be available for hire by a nonmember of the affiliated group. Determine whether an aircraft is available for hire by a nonmember of an affiliated group on a flight-by-flight basis.

An affiliated group of corporations, for this rule, is any group of corporations connected with a common parent corporation through 80% or more stock ownership.

**Small aircraft.** The taxes do not apply to transportation furnished by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less. However, the taxes do apply if the aircraft is operated on an established line. "Operated on an established line" means the aircraft operates with some degree of regularity between definite points.

Consider an aircraft to be operated on an established line if it is operated on a charter basis between two cities also served by that carrier on a regularly scheduled basis.

**Mixed load of persons and property.** If a single amount is paid for air transportation of persons and property, the payment must be allocated between the amount subject to the tax on transportation of persons and the amount subject to the tax on transportation of property. The allocation must be reasonable and supported by adequate records.

## Credits or Refunds

If tax is collected and paid over for air transportation that is not taxable air transportation, the collector may claim a credit or refund if it has repaid the tax to the person from whom the tax was collected or obtained the consent of that person to the allowance of the credit or refund. Alternatively, the person who paid the tax may claim a refund. For information on forms used to claim a credit or refund, see *Credits and Refunds*, later.

## Fuel Taxes

Excise taxes are imposed on all the following fuels.

- Gasoline.
- Gasohol.
- Diesel fuel.
- Kerosene.
- Aviation fuel.
- Special motor fuels (including LPG).
- Compressed natural gas.